

WiSCon... The Real Story

In the last issue of the Advisor, two articles appeared which relayed incorrect information about the Wisconsin Safety Consultation Program. In this issue we would like to apologize for generating any confusion about the Program and will correct the errors regarding report confidentiality, what constitutes a serious hazard, the use of checklists, and OSHA inspection immunity.

Report Confidentiality

The Wisconsin Safety Consultation Program (WiSCon) has conducted over 12,000 visits to Wisconsin employers since 1977. Since that time, no report has ever been issued to any branch of OSHA, nor has any report ever been released to public inquiry. The Code of Federal Regulations prohibits OSHA from accessing copies of the Consultation Program reports. In addition, Consultation Program reports are not subject to the Wisconsin Open Records law according to a decision made by the courts in the 1970s. Finally, the Program is exempt from the (Federal) Freedom of Information Act (FOIA) under FOIA exemption #4, which deals with confidential business information. Therefore all reports and information are kept confidential, between the Program office and the employer.

Serious Hazards

The Department of Commerce administers the Program through a Cooperative Agreement with the U.S. Department of Labor. Through the Cooperative Agreement the state follows specific policies and procedures, including addressing hazards in the workplace. When rat-

ing hazards, Consultants will use the OSHA definition of "serious hazard"; a substantial probability that death or serious physical harm could result from a condition that exists. Contrary to the question in the last issue, hazards cannot be "rated" until they are observed.

Most employers will also know that fixing hazards alone won't give them a safe workplace. Preventing hazards from occurring and recurring is just one of the keys to a safe workplace. It is the Consultants' role to help the employer integrate safety into the production equation. Consultants will do this by providing suggestions on how to prevent hazards through the employers management system.

Checklists

To be as thorough as possible, Consultants will prepare for a visit with an employer by researching the latest developments in the employers industry prior to the actual visit. All Consultants will also spend about four weeks a year in continuing education courses to keep current with safety issues and OSHA standards. To simply say "they have a long checklist" is incorrect. Some Consultants have formalized their notes to insure that none of the basic issues will be missed. However, no specific checklist is used by the Consultation Program. This approach wouldn't serve the need of the employer, since workplaces, their settings, processes, hazards, work and management structures vary far too much to simply use a "checklist" in conducting a site visit.

(Continued on Page 4)

**New From the
Small Business
Clean Air
Assistance
Program...**

✓ *Dry Cleaner's
Calendar 2001* - Each
month shows all the
records a dry cleaner
needs to keep.

✓ *Facts About the
General VOC Rule in
ch. NR 424* - If you're
not affected by a VOC
RACT rule, this rule
may affect you.

To order:
call (608) 264-6153;
fax (608) 267-0436; or
email [CleanAir@
commerce.state.wi.us](mailto:CleanAir@commerce.state.wi.us)

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Changes to the DNR's Air & Waste Consolidated Reporting System

Big Changes?

You won't see any dramatic changes to this year's version of the Consolidated Reporting System (CRS), but you will see improvements. For the past two years, the Department of Natural Resources (DNR) has used the latest Windows version of CRS to electronically acquire the annual information on air emissions and waste generated by a company in the previous year. All the CRS screens will look and operate the same as last year.

A Voluntary Option for Reporting

The CRS improvement this year involves using the Internet. If you have a computer with a modem, you will be able to send your information directly to DNR across the Internet. All previous submittal options such as diskette or paper will still be available. If you choose to submit the information over the Internet, the CRS program will send it directly to the DNR, which will then send you a receipt by email. All information, with the exception of the signed hazardous waste certification form, can be sent to DNR electronically for the 2000 reporting year.

Another Option for Internet Use

If you have access to the Internet, you will also have the option of receiving the CRS program and your facility's data electronically through email. Then you can load the CRS software and supporting information onto your computer from either attached files or links to specific points on the DNR web site in that email. Sometime in October or November the DNR will contact you to offer you that option. DNR believes this option will save data processing time for both DNR and company staff. This year DNR hopes to have between 5 and 10% of facilities reporting use this method, and that the percentage will increase each year. ○

Federal Regulatory Overview Course

The Wisconsin Chapters of CHMM (Certified Hazardous Materials Managers) and FET (Federation of Environmental Technologists) will again sponsor a series of training sessions for individuals needing a comprehensive environmental overview, professional continuing educational credits, and/or those who want to prepare for the CHMM examination.

What Will Be Covered?

Key topics covered in this 11 week course will include:

- ➡ Environmental Health & Safety
- ➡ Regulatory Compliance & Policy
- ➡ Science and Technology
- ➡ Material Handling, Emergency Response & Remedial Action

When Are the Sessions?

The sessions will run weekly from November 9, 2000 through February 22, 2001, on Thursday nights. Each session will run from 6:00 pm to 9:00 pm. The overview course brochure has all the dates and topics covered for each session. The course series finishes shortly before the next CHMM exam sponsored by FET in March.

Additional Information

The reservation deadline is November 1, 2000. The full course costs \$550 per person but if you want to attend a few individual sessions you can pay just \$55 per session per person. The course fees include the cost of printed materials for the course.

Contacts

To receive a copy of the course brochure and registration form, contact FET at 262/644-7106 or email: fet@hnet.net. You can also contact the Small Business Clean Air Assistance Program to get the information. ○

DNR Is Piloting Environmental Management Systems

DNR Pilot

As part of the celebration of the 30th anniversary of Earth Day, DNR announced its plans to pilot an environmental management system at a few of its sites. An environmental management system (EMS) is an environmental tracking system established by a company according to an international standard called ISO 14000 (see side bar on page 2 for more information).

Which Sites are Involved?

The sites or programs involved are:

- DNR Headquarters in Spooner
- Lake Kegonsa State Park
- The Air Program
- The Waste Program

The Air Program is working on two different EMS Pilot Projects. The first is a joint venture with the foundry industry to develop a way to manage benzene, and second studies the way the Air Program uses resources (i.e., paper, electricity) in its daily operations. The Waste Program is working on a new way to view waste management.

The Spooner Headquarters will review not only the office operations but also the associated campus installations such as garages, the Ranger Station and the Fish Hatchery. The Lake Kegonsa State Park will review office operations as well as aspects such as recycling and waste management at the campground.

What Does DNR Hope To Learn?

The EMS pilots are intended to:

- ❖ give DNR staff the opportunity to prepare an EMS and learn what a company goes through to implement an EMS first hand;
- ❖ assess whether an EMS can help improve DNR's environmental performance related to the primary activities of policy development, program management and environmental regulation and compliance; and
- ❖ set an example that will encourage businesses to develop their own EMS.

Additional details on the DNR's EMS programs will be available soon on their web site at:

<http://www.dnr.state.wi.us/org/caer/ceal/ems>.

Other EMS Resources

If you are interested in building an EMS for your small business, another resource is USEPA's Design for the Environment (DfE) web site. This program is in the Office of Pollution Prevention and Toxics at USEPA. There they have some projects working with small businesses on developing an EMS with DfE elements. A couple examples of projects that are going on presently are with Auto Refinishing shops and Screen Printing operations. The web address is

<http://www.epa.gov/opptintr/dfetools/ems/ems.html>, but you can also reach the program by calling 202/260-1678. ○

What is an Environmental Management System?

An Environmental Management System (EMS) is a system developed according to the ISO 14001 requirements. ISO 14001 is an internationally recognized standard for the environment. It provides a systems approach patterned after the Deming model of **plan, do, check** and **act**. ISO 14001 is one of a series of Environmental Standards developed by the International Organization for Standardization.

ISO 14001 contains specific criteria that an EMS must include, but in general an EMS is a set of management processes and procedures that allows an organization to analyze, control and reduce the environmental impact of its activities, products and services and operate with greater efficiency and control.

Companies developing an EMS may or may not seek certification under ISO 14001. The certification adds credibility in that your system has been reviewed by an external third party and found to meet all the criteria of ISO 14001.

Many companies that export their products or supply others that export a final product, are finding ISO certification a necessary component of doing business. For example, suppliers for the large automakers are required to obtain the ISO 14001 certification. ○

Compliance Assistance Tools Available For You

DRY CLEANERS Compliance Calendar

To help dry cleaners keep all their required air pollution records in one place, the Small Business Clean Air Assistance Program (SBCAAP) in Wisconsin borrowed a compliance calendar template created by the Florida Small Business Assistance Program. All 300 dry cleaners on the SBCAAP mailing list should have received one copy in June 2000. You may find it useful to have one for each machine.

The SBCAAP would like to thank the dry cleaners for providing us with input and some good suggestions for changes to the calendar in 2002.

If you did not receive a calendar or would like additional copies, please contact us at (608) 264-6153 or (608) 267-9214 or at CleanAir@commerce.state.wi.us. ○

New From EPA Updated Guidance

The Environmental Protection Agency's (EPA) Small Business Ombudsman updated a few of their guidance documents as of May 2000.

✓ *Environmental Management Guide for Small Laboratories* (EPA 233-B-00-001)

✓ *Little Known But Allowable Ways to Deal With Hazardous Waste* (EPA 233-B-00-002)

✓ *The Small Business Source Book on Environmental Auditing* (EPA 233-B-00-003)

You can also request the *Publications for Small Businesses* book if you need a listing of all documents EPA has available. You can obtain copies by calling the hotline at (800) 368-5888 or by sending an email to smallbiz.ombudsman@epa.gov. ○

The WiSCon Story Continued

(continued from page 1)

Inspection Immunity

Contrary to the statement "...you are immune from an OSHA inspection for 30 days..." , an employer may or may not get a pass on an OSHA inspection. A formal protocol has been established to handle situations when an OSHA Compliance Officer appears at an employer working with the Consultation Program.

If the reason for the OSHA compliance inspection is a complaint, an accident, a referral (including a report of imminent danger), the inspection will always have priority and will be conducted. The consultation may be continued at such time that any citation has become a final order (after the 15-day contest period). If the Compliance Officer is to initiate a programmed (scheduled) inspection, several scenarios may take place:

a) If the Consultant is already at the employer's worksite, the consultation will have priority. The establishment will be removed from the current inspection list until the expiration of any hazard abatement dates

(no hazards are discussed, only abatement dates).

b) If the employer informs the Compliance Officer that a consultation was recently completed, but no report has been received, the Compliance Officer will report to the OSHA Area Director, who will confirm the visit with the Consultation Program Manager. The Consultation Manager will inform the Area Director of any hazard abatement dates. The Compliance Officer may (or may not) return to the company following the abatement date.

c) If the Compliance Officer is informed that a consultative visit is scheduled within the next ten business days (as verified by a letter from the Consultation Program), the Compliance Officer is to leave until the report is issued and/or until the expiration of any hazard abatement dates.

If you have further questions on the Consultation Program or would like an overview of available services contact their office at 1-800-947-0553. ○

Green Tier

A New Regulatory Concept Proposed by Wisconsin DNR

The environmental regulatory system familiar to most industries is the **Command and Control** concept. In the Command and Control system a governmental agency develops and enforces regulations and a business must comply. If a business does not comply with those regulations within a specific time period, it may have to pay fines and forfeitures. The Command and Control system usually leaves little room for innovation or other environmental compliance options.

To recognize and encourage businesses to go beyond compliance, the Department of Natural Resources (DNR) is exploring a "Green Tier" regulatory concept. Green Tier will be a voluntary program with specific criteria to determine which businesses are qualified to participate. The DNR has convened an Advisory Group to develop the criteria as well as other aspects, such as incentives, to the Green Tier Program. Outcomes from the Advisory Group will result in the regulatory language that DNR will propose to the Natural Resources Board and the Wisconsin Legislature for approval.

Some of the incentive ideas are:

- 👉 Financial assistance for companies to achieve superior environmental performance.
- 👉 Expedited or streamlined environmental permits.
- 👉 Reduced administrative burden (such as less monitoring, reporting, inspections) and more flexibility in enforcement, compliance deadlines, and permit limits.

More information on Green Tier can be found at:

http://www.dnr.state.wi.us/org/caer/cea/green_tier/index.htm. ○

Council's Corner...

Green Tier - An Opportunity for Unprecedented Environmental Performance

Developed from the vision of Department of Natural Resources Secretary George Meyer and the concerted effort of dedicated citizens from across the state, the Green Tier concept is designed to redefine the relationship between regulators and the regulated community. Its overall goal is to protect the environment while encouraging the continuing competitiveness of the state's businesses.

Green Tier is built on a foundation of mutual trust. It provides meaningful incentives to any regulated entity for environmental performance that exceeds baseline compliance. Green Tier is an alternative to standard "command and control" environmental regulations that typically leave little room for innovation or other compliance options. While there may always be a need to maintain some aspect of the command and control model, the impetus to create a new, more effective and efficient model is growing nationally. Wisconsin, with its long history of leadership in environmental performance is suitably proactive in developing this voluntary program.

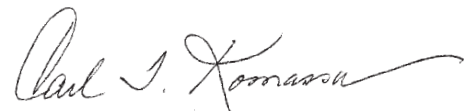
The Green Tier concept can result in the continuous improvement of the environment, economy and quality of life at local, regional and state levels. Incentives such as flexibility, streamlining and technical assistance will provide **real benefits** to participating businesses.

The Green Tier committee has also identified the following long-term expectations for this concept:

- 1) Through public-private partnerships, promote opportunities for environmental restoration, resource conservation, and regulatory effectiveness.
- 2) Increase levels of trust, communication and accountability among agencies, regulated businesses and the public.
- 3) Promote efficient and effective regulatory performance to reduce time and money spent by all stakeholders.
- 4) Provide accurate, timely, and useful performance information and environmental data.

Given the goals and expected benefits, this is significant legislation that deserves the consideration and support of Small Business in Wisconsin.

Chair of the Small Business
Environmental Council and
member of Green Tier Advisory Committee,
Carl Komassa, Quality Systems Manager, Beck Carton



MACT Compliance Deadlines

Are you on track with MACT?

The Environmental Protection Agency (EPA) set standards to control hazardous air pollution through MACT standards as part of the 1990 Clean Air Act Amendments. MACT stands for Maximum Achievable Control Technology. MACT standards have been set by USEPA for many different industry categories. The MACT requirements are based on the level of control achieved by the top 12% best controlled sources in each regulated industry.

Keeping Track Of MACT Deadlines

A MACT standard contains a number of filing or testing deadlines:

- ✓ **Initial Notification**
- ✓ **Initial Performance Test**
- ✓ **Notification of Compliance Status**
- ✓ **Initial and Annual Compliance Certifications**

Each of these due dates requires a submittal to EPA or the delegated authority. In Wisconsin, the Department of Natural Resources (DNR) Air Program has accepted delegation to carry out a majority of the MACT standards, incorporating the federal rules into the state Administrative Code and acting as the primary enforcement authority. EPA can still enforce the MACT standards if they feel the state is not providing sufficient enforcement of the standard.

For MACT standards where Wisconsin has less than 10 businesses affected by the standard, the standard will not be incorporated into the Wisconsin Administrative Code but instead is written into the affected facility's air operation permit. The DNR Air Program will still be the primary enforcement authority for those standards.

Are There Resources Available to Help Me Keep Track?

If you have access to the Internet, you may find some good resources to help you track those MACT due dates and determine how a standard affects your business.

The Ohio EPA has developed a web site that concisely spells out the affected industries and due dates for a large number of the final MACT standards. Go to:

www.epa.state.oh.us/dapc/mact/mactmain.html

for the home page. As you move down the page, you will come to a list of the MACT standards. By clicking on the standards that are underlined, you will go to a page with additional information about that industrial category's MACT standard, and find basic information on affected industries. From there you click on the **Technical Summary** to get to a list of the deadlines.

Each standard will set a date that defines whether a source is considered "new construction". This is important because new sources must comply with the standard immediately upon startup, where existing sources usually have three years to determine how they will comply.

Much more detail on the MACT Standards can be obtained at the USEPA's United Air Toxics Web site (UATW) under Rules and Implementation at:

www.epa.gov/ttn/uatw/eparules.html

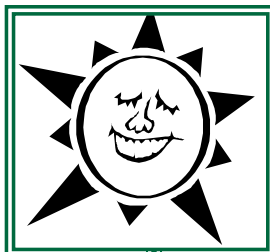
This site is linked from Ohio EPA's site at the bottom of its home page. Each rule description area on Ohio's site will take you directly to the rule page under UATW's site as well.

If you have any trouble with these sites, feel free to contact the Small Business Clean Air Assistance Program and we can send you hard copies of the information from the internet. ○

Hot Topics in DNR's Air Program

Check them out at <http://www.dnr.state.wi.us/org/aw/air/hot/index>

Status of the 1-Hour Ozone Standard Rule for SIP Approval



In June 2000, DNR's Air Program held public hearings statewide on the proposed Ozone Attainment Demonstration Plan for the 1-hour ozone standard. After listening to many comments from affected parties, the DNR developed a final plan and went before the Natural Resources Board for approval.

Briefly, the key elements in the 1-Hour Ozone Attainment Demonstration Plan include:

- ❶ Minimum performance standards for new facilities as of 2001, in the eight nonattainment counties (Kenosha, Racine, Milwaukee, Waukesha, Washington, Ozaukee, and Sheboygan).
- ❷ Minimum performance standards for existing facilities (incl. large NO_x units - emission limits and combustion optimization) as of December 31, 2002 in the eight nonattainment counties.
- ❸ Emission limits for large electric generation facilities, reducing the limits each year from 2002 through 2007 in eight nonattainment counties.
- ❹ Voluntary combustion optimization, tune-up and NO_x performance commitments by large sources in rest of state.
- ❺ Reasonably Available Control Technology rule to reduce VOC emissions from industrial clean-up solvent use.
- ❻ Excess emission fee applicable in 2008 if attainment not achieved.

The plan differs from the first draft with:

- ❶ No NO_x offset requirements.
- ❷ No annual burner tune-up component.
- ❸ NO_x limits applicable only during ozone season and at level of major modification thresholds.

Check out the **details** of 1-Hour Ozone Standard Demonstration Plan on the DNR Air Program Hot Topics web site. ○

Revisions to Chapter NR 445 Progress on the Rule Changes

The Toxics Advisory Group (TAG) for NR 445 Rule Revisions has met three times since our last publication. Progress has been made on a few of the issues the TAG was charged with and sub-groups have been formed to discuss issues of:

- public health,
- the compliance options under the new rule, and
- the affect of listing crystalline Silica on specific industries.

One of the industrial TAG members proposed an extra "off-ramp" step (like an off-ramp on the highway, this step takes you off the usual compliance road). The intent of the new step would be to allow sources to show they are in compliance with NR 445 before submitting documentation for a full review by DNR. The TAG approved the new compliance option.

Small businesses could use the "off-ramp" to compare their emissions with the Acceptable Ambient Concentrations (AAC) in the NR 445 tables. There is a specific AAC for each hazardous compound listed in NR 445, so the company would have to compare each one it emits. In the past, the company would have been required to submit permit application forms or similar documentation to allow DNR to determine if the company was in compliance.

This new "off-ramp" should benefit small businesses. It involves a simple computer run model available free from EPA. You will not need a high tech computer to run this model. This step will also save the company time previously spent completing the application forms or preparing other documentation and then waiting for DNR's determination.

For more **details** on the NR 445 revisions and the TAG meetings, check out the DNR Air Program Hot Topics web site. Contact the Small Business Clean Air Assistance Program with any questions on this at cleanair@commerce.state.wi.us. ○

Effective September 1 - DNR Air Program's Construction Permit Guarantee Rule

A Permit Guarantee?

The Department of Natural Resources (DNR) created a new rule that specifies the amount of time within which the agency must issue an Air Pollution Construction Permit. If the DNR does not complete the permit within the time period, it must refund your permit fees. The guarantee, in NR 406.08, Wis. Adm. Code, is based on the date when the DNR has a **complete** application.

Here's How the New Rule Works

If you are planning to do any type of construction or expansion at your facility that will generate air pollution, you may need an Air Pollution Construction Permit. Most small businesses usually require a ***minor source*** construction permit.

Your facility wants to expand its painting operation, so you fill out and submit an Air Pollution Construction Permit application to DNR. Once DNR receives the application, it has 20 days to let you know whether it is complete. Then the permit guarantee "clock" starts and

DNR begins the review of the application. If the agency needs additional information to complete the review, the application is no longer considered complete and the permit guarantee "clock" stops.

The DNR reviewer will contact you with a request for the additional information required. Once DNR receives sufficient information, they will again let you know the application is complete and the "clock" starts again. If you are being issued a ***minor source*** construction permit, the permit guarantee "clock" for DNR is 145 calendar days from the date the application is **complete** until the date they issue the construction permit. The total elapsed time from the date a complete application has been received by DNR increases based on the complexity of the type of construction permit to be issued.

Call for Assistance

Contact Dan Johnston at 608/267-9500 or Jeff Hanson at 608/266-6876 if you have questions about this rule or any other construction permit issues. ○

WISCONSIN DEPARTMENT OF COMMERCE

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